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| 09/830,686      | 08/03/2001  | Keiji Yano           | 027650-928          | 9925             |

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EXAMINER

DURAND, PAUL R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/830,686

Applicant(s)

YANO, KEIJI

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 22 discloses a filling machine but, dependent claims 23-29 are toward a heat sealing device.

Claims 23-29 are interpreted to disclose a filling machine with details directed toward a heat sealing device.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9,16 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadler (US 5,231,817).

Sadler discloses the invention as claimed including a heat sealing device as part of a vertical form and fill machine, comprised of a operation jaw 30, with a flat surface,

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facing the seal zone, a counter jaw 31, comprised of a curved surface 56, facing the seal zone, that transversely seals a package 99 filled with a liquid, the seal jaws 30 and 31 being able to collapse the tube and remove the air from the pouch before sealing (see Figs. 1, 2a, 2b, Abstract, C3, L8-27 and C4, L33-35).

5. Claims 10,11,15,17,21,23,24 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadler (US 5,231,817).

In regard to claims 10, 11, 17, 23 and 24, Sadler discloses the invention as claimed including a counter jaw 30 with a curved surface 56 that is in the form of a chevron

In regard to claims 15 and 28, Sadler discloses the invention as claimed including a resistance body 30 for forming a seal zone (see Figs. 2a, 2b). Furthermore, the Examiner gives little patentable weight to the packaging material being comprised of a metal and thermoplastic layer since the intended use of the device is independent of the material used to package the product.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12, 18, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadler in view of Fukuda (US 5,347,795).

Sadler discloses the invention substantially as claimed including sealing members 30 and 31. What Sadler does not disclose is a sealing member that is comprised of ridge formed at the operation surface. However, Fukuda teaches that it is old and well known in the art to provide transverse sealing members with sealing members 20 that are in the form of discontinued ridges for the purpose of increasing manufacturing efficiency (see Fig. 13). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Sadler with ridged sealing members as taught by Fukuda for the purpose of increasing manufacturing efficiency.

8. Claims 13, 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadler in view of Konno et al (US 5,787,690).

Sadler discloses the invention substantially as claimed including resistance heating device for sealing members 30. What Sadler does not disclose is inductance heating means for sealing packages. However Konno teaches that it is old and well known in the art to provide a sealing machine with a transverse sealing device 1 with sealing member 35 and 36, heated by inductor 19 for the purpose of increasing manufacturing efficiency (see Figs. 4-7 and C2, L20-29). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Sadler with the inductance heating means for sealing packages as taught by Konno for the purpose of increasing manufacturing efficiency.

In regard to claims 13 and 26, the Examiner gives little patentable weight to the packaging material being comprised of a metal and thermoplastic layer since the intended use of the device is independent of the material used to package the product.

9. Claims 14, 20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadler in view of Condo et al (US 3,381,441).

Sadler discloses the invention substantially as claimed including resistance heating device for sealing members 30. What Sadler does not disclose is ultrasonic heating means for sealing packages. However Condo teaches that it is old and well known in the art to provide a sealing machine with an ultrasonic sealing device 19 with sealing member 20, heated by ultrasonic waves for the purpose of increasing manufacturing efficiency (see Figs. 1,5,8 and C3, L63-68). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Sadler with the ultrasonic heating means for sealing packages as taught by Condo for the purpose of increasing manufacturing efficiency.

In regard to claims 15 and 27, the Examiner gives little patentable weight to the packaging material being comprised of a metal and thermoplastic layer since the intended use of the device is independent of the material used to package the product.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pike, Pederson, Dominici, James, Rowell, Andreas, Bordini, Christine, Umeda et al, Wirsig et al, Patelli, Rummage et al, Fiesser et al, Konno,

Bennett, Vollenweider et al, Terminella et al, Meli et al, Nakagawa et al, Quintin et al, Nakamura et al, Johnson and Nettesheim have been cited to shoe devices having similar structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0700-1730, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Paul Durand  
October 16, 2002



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700